IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

RSA 267 of 2007

DATE OF DECISION : APRIL 22, 2008

HARI RAM ..... APPELLANT(S)

VERSUS

STATE OF HARYANA AND OTHERS ..... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE AJAI LAMBA

PRESENT: Mr. JP Sharma, Advocate, for the appellant.

AJAI LAMBA, J.

This is plaintiff's Regular Second Appeal. The claim in the suit was for issuance of a decree of declaration to the effect that the plaintiff was entitled for regularization of his services with effect from 1.10.2003, in terms of Policy letter No.6/9/2003 IGSI dated 3.10.2003.

The facts, as noticed in the impugned judgment, are that the plaintiff was appointed under the defendants on 1.7.1993 to the post of Mali-cum-Chowkidar, on daily wages. The services, however, were terminated on 1.1.1996. A demand notice was served upon the Management under the Industrial Disputes Act, 1947. The matter was referred to the Labour Court, Gurgaon. After adjudication, vide award dated 5.1.2001, the termination of services of the plaintiff was held to be

illegal. The plaintiff was directed to be reinstated with continuity of service without back-wages. The award was not implemented. Subsequently, the plaintiff was reinstated on 29.11.2004.

In view of the fact that his services had not been regularized, the plaintiff instituted the suit seeking regularization of services on the basis of policy, as noticed above. The suit was decreed, however, the first appeal filed by the respondent-defendants, was allowed on the ground that the plaintiff was not entitled to regularization as he did not fulfill the conditions as contained in the policy nor had any legally enforceable right to regularization of services in view of the law laid down by the Hon'ble Supreme Court of India in Secretary, State of Karnataka and others v. Umadevi and others, 2006(1) Supreme Court Cases 1. Detailed reference to the judgment has been made in the judgment rendered by the first appellate Court.

The other judgment to which reference has been made in para-17 and 18 of the judgment of the first appellate Court is judgment dated 25.4.2006 rendered in CWP 7563 of 2005 (Rajinder Kumar v. State of Haryana and others).

The gist of the judgment of the first appellate Court is that the entry of the plaintiff in service was not in accordance with the statutory rules and was not in consonance with the provisions of Articles 14 and 16 of the Constitution of India. In such circumstances, the policy of regularization would not confer an enforceable right on the employee. Regularization on the post would mean back door entry.

On consideration of the facts noticed in para-15 of the

judgment of the first appellate Court, I find that it has been noticed that the case of the plaintiff does not fall under the Policy (Exhibit PW1/2) as the conditions are not satisfied. The plaintiff had claimed regularization on the post of Beldar. The plaintiff, however, had failed to show that he had the requisite qualification for such a post. He had further not been able to show that, originally, he was appointed against a vacant and available post.

As against this infirmity in the claim of the plaintiff, the respondents were able to show that the plaintiff was taken in service against Aravali Project, funded by the European Economic Commission. The project had been completed on 31.10.1999. Under such circumstances, daily wagers, such as the plaintiff, could not be allowed to continue beyond the period of completion of the project.

Learned counsel for the appellant has neither been able to dispute the facts, as noticed above, nor cite any law to the contrary so as to establish the claim of the plaintiff for regularization.

In view of the above, no substantial question of law, as raised in para-13 of the grounds of appeal, arises.

The appeal is, accordingly, dismissed in limine.

April 22, 2008 (AJAI LAMBA)
Kang JUDGE